

support or resources, as defined in 18 U.S.C. 2339A(b).

(d) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this section.

(e) *FTOs also designated as SDTs or SDGTs.* In cases in which an FTO is also an SDT, as described in § 744.13, or an SDGT, as described in § 744.12, the license requirements and licensing policy set forth in § 744.13 or § 744.12 will apply.

NOTE TO § 744.14: This section does not implement, construe, or limit the scope of any criminal statute, including (but not limited to) 18 U.S.C. 2339B(a)(1) and 2339A, and does not excuse any person from complying with any criminal statute, including (but not limited to) 18 U.S.C. 2339B(a)(1) and 18 U.S.C. 2339A.

[68 FR 34195, June 6, 2003]

§ 744.15 Restrictions on exports, reexports and transfers (in-country) to persons listed on the unverified list.

(a) *General requirement.* In addition to the requirements set forth elsewhere in the EAR, exports, reexports, or transfers (in-country) subject to the EAR involving parties to the transaction who are listed on the Unverified List (UVL) must be made in accordance with paragraph (b) of this section. The names and addresses of foreign persons subject to end-user controls based on the criteria described in paragraph (c) of this section are identified in the Unverified List found in Supplement No. 6 to this part. Requirements found elsewhere in the EAR also apply, including but not limited to any license requirements, the record filing requirements pursuant to § 758.1(b)(8), and the restrictions on license exceptions described in § 740.2(a)(17) of the EAR.

(b) *UVL statement.* Before proceeding with any export, reexport, or transfer (in-country) subject to the EAR that is not subject to a license requirement, involving a person listed on the Unverified List as a party described in § 748.5 of the EAR, an exporter, re-exporter, or transferor (in-country) must obtain a UVL statement from such person, according to the provisions set forth in this section. The statement must be retained in accordance with part 762 of the EAR.

(1) One UVL statement may be used for multiple exports, reexports, and transfers (in-country) of the same items between the same parties, so long as the party names, the description(s) of the items and the ECCNs are correct. If one UVL statement is used for multiple exports, reexports, and transfers (in-country), the exporter, re-exporter, and transferor must maintain a log or other record that identifies each export, reexport, and transfer (in-country) made pursuant to this section and the specific UVL statement that is associated with each. The log or record must be retained in accordance with Part 762 of the EAR.

(2) The UVL statement must be in writing, signed and dated by an individual of sufficient authority to legally bind the UVL party, and state the following:

(i) Name of UVL party; complete physical address, to include shipping, corporate, and end user addresses, if different (simply listing a post office box is insufficient); telephone number; fax number; email address; Web site (if available); and name and title of individual signing the UVL statement.

(ii) Agrees not to use the item(s) for any use prohibited by the United States Export Administration Regulations (EAR), 15 CFR Parts 730-772, and agrees not to reexport or transfer (in-country) the item(s) to any destination, use or user prohibited by the EAR.

(iii) Declares that the end use, end user, and country of ultimate destination of the item(s) subject to the EAR are as follows: [INSERT END USE, END USER, AND COUNTRY OF ULTIMATE DESTINATION].

(iv) Agrees to cooperate with end-use checks, including a Post-Shipment Verification, conducted by or on behalf of the Bureau of Industry and Security, U.S. Department of Commerce, for any item subject to the EAR in transactions to which they were a party in the last five years. This cooperation includes facilitating the timely conduct of the check and providing full and accurate information concerning the disposition of items subject to the EAR.

(v) Agrees to provide copies of this document and all other export, reexport or transfer (in-country) records required to be retained in part 762 of the EAR.

(vi) Certifies that the individual signing the UVL statement has sufficient authority to legally bind the party.

(c) *Criteria for revising the Unverified List.* (1) Foreign persons who are parties to an export, reexport, and transfer (in-country) subject to the EAR may be added to the Unverified List if BIS or federal officials acting on BIS's behalf cannot verify the *bona fides* (i.e., legitimacy and reliability relating to the end use and end user of items subject to the EAR) of such persons because an end-use check, such as a pre-license check (PLC) or a post-shipment verification (PSV), cannot be completed satisfactorily for reasons outside of the U.S. Government's control. Examples in paragraphs (c)(1)(i) through (iii) of this section provide an illustrative list of those circumstances.

(i) During the conduct of an end-use check, the subject of the check is unable to demonstrate the disposition of items subject to the EAR.

(ii) The existence or authenticity of the subject of an end-use check cannot be verified (e.g., the subject of the check cannot be located or contacted).

(iii) Lack of cooperation by the host government authority prevents an end-use check from being conducted.

(2) BIS will remove a person from the Unverified List when BIS is able to verify the *bona fides* of the listed person as an end user, consignee, or other party to exports, reexports, or transfers (in-country) involving items subject to the EAR by completing a PLC or PSV. In the limited circumstance involving a PLC or PSV that cannot be completed due to lack of host government cooperation, an alternative *bona fides* verification process may be determined by BIS to be sufficient. A determination to remove a person from the Unverified List based on the criteria in this paragraph is separate from any determination made by BIS pursuant to § 744.11(b) of the EAR, and must be requested through paragraph (d) of this section.

(d) *Procedure for requesting removal of a person on the Unverified List.* Any per-

son listed on the Unverified List may request that its listing be amended or removed.

(1) All such requests, including reasons therefor and information that verifies the *bona fides*, i.e., legitimacy and reliability of the person listed on the Unverified List as an end user, consignee or other party to exports, reexports, and transfers (in-country) of items subject to the EAR, must be in writing and sent to: Director, Office of Enforcement Analysis, Bureau of Industry and Security, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW., Room 4065, Washington, DC 20230, via fax to (202) 482-0971, or by email to UVLRequest@bis.doc.gov.

(2) The Deputy Assistant Secretary for Export Enforcement will review such requests and will convey the decision on the request to the requester in writing based on an assessment of the listed person's *bona fides* as a party to exports, reexports, and transfers (in-country) subject to the EAR. That decision will be the final agency action on the request.

[78 FR 76747, Dec. 19, 2013]

EFFECTIVE DATE NOTE: At 78 FR 76747, Dec. 19, 2013, § 744.15 was added, effective Jan. 21, 2014.

§ 744.16 Procedure for requesting removal or modification of an Entity List entity.

Any entity listed on the Entity List may request that its listing be removed or modified.

(a) All such requests, including reasons therefor, must be in writing and sent to: Chair, End-User Review Committee, Bureau of Industry and Security, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Room 3886, Washington, DC 20230.

(b) The End-User Review Committee will review such requests in accordance with the procedures set forth in supplement no. 5 to this part.

(c) The Deputy Assistant Secretary for Export Administration will convey the decision on the request to the requester in writing. That decision will be the final agency action on the request.

[73 FR 49322, Aug. 21, 2008]